IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1069 OF 2007

Mr. Ismail Bhatia ..Petitioner

Vs.

The State of Maharashtra and anr. ..Respondents

Petitioner-in-person present.
Mr. Y.S. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2007.

P.C.:

. The petitioner had instituted Criminal Case No. 3629/SS/05 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and the same complaint has been dismissed by acquitting the accused Shri Khozema Degamwala s/o Abbasbhai Degamwala as per the Judgment and Order dated 3/8/2006 rendered by the learned Metropolitan Magistrate, 6th Court, Mazgaon, Mumbai. The petitioner will have to, therefore, seek leave under Section 378(4) of the Cr.P.C. to file an appeal against the order of acquittal dated 3/8/2006 and when such a statutory

remedy of appeal is available a writ petiton under Article 227 of the Constitution cannot be entertained.

. Hence, the petiton is disposed with liberty to the petitoner to apply for special leave to appeal under Section 378 (4) of Cr.P.C.

(B.H. Marlapalle,J.)